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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,424	08/17/2001	Eric Eugene. Johnson		4305

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EXAMINER

NELSON JR, MILTON

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 07/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. <b>09/932,424</b>	Applicant(s) <b>Johnson</b>
	Examiner <b>Milton Nelson, Jr.</b>	Art Unit <b>3636</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on \_\_\_\_\_.
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-10 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

- 15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2
- 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other:

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## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information referred to in the information disclosure statement filed December 5, 2001 has been considered as to the merits.

### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it includes legal phraseology ("means"). Correction is required. See MPEP § 608.01(b).

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***Claim Objections***

4. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 1, 2, 3, 4, 5, 6, 6, 7, 8, and 9 have been renumbered as claims 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, respectively.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, it is unclear if Applicant intends to positively claim the seat back. In line 1, the invention is set forth as a “headrest for use with a chair having a seat back”. Such appears to set forth the seat back as only an environment with which to use the invention in. However, in lines 6-7, Applicant sets forth the head-support portion of the headrest as “connected to said base portion, extending far enough outward from said seat back ...” Such appears to set forth the seat back as part of the invention. Similarly note claim 8. Clarification is required. In

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claim 3, it is unclear if “means for wrapping around said back of said seat back” is intended to be the same structure as the previously set forth “means for wrapping around the back of said seat back”. In claim 3, “the two ends of each” lacks proper antecedent basis. In claim 4, “the user” lacks proper antecedent basis. In claim 10, “the transport of said strap loop” lacks proper antecedent basis. In claim 10, “the force exerted by the user’s head” lacks proper antecedent basis.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

8. Claims 1, 4, 5 and 6, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 102(e) as being anticipated by O’Connor et al (6123389). Note the base portion (22), head-support portion (14), means for wrapping (26), and hinged joint (162b).

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9. Claims 1, 2, 6, 7 and 8, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 102(b) as being anticipated by Fishbane (5630651). Note the base portion (4) and head-support portion (8).

10. Claims 1, 5 and 6, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 102(b) as being anticipated by Schreiner (5975638). Note the base portion (18), head-support portion (17), and means for wrapping (9, 12).

*Claim Rejections - 35 USC § 103*

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 3, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 103(a) as being unpatentable over Schreiner (5975638) in view of Franzen, Jr (5685613).

The primary reference shows all claimed features of the instant invention with the exception of the means for wrapping comprising two straps, wherein the two ends of each being attachable together with a length-adjustable buckle.

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The secondary reference conventionally teaches configuring a support with a means for wrapping comprising two straps, wherein the two ends of each being attachable together with a length-adjustable buckle. Note such in Figure 17.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by configuring the device with a means for wrapping comprising two straps, wherein the two ends of each being attachable together with a length-adjustable buckle. Such a modification enhances selective securement of the device to a supporting object.

**13.** Claim 3, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connor et al (6123389) in view of Franzen, Jr (5685613).

The primary reference shows all claimed features of the instant invention with the exception of the means for wrapping comprising two straps, wherein the two ends of each being attachable together with a length-adjustable buckle.

The secondary reference conventionally teaches configuring a support with a means for wrapping comprising two straps, wherein the two ends of each being attachable together with a length-adjustable buckle. Note such in Figure 17.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by configuring the device with a means for wrapping comprising two straps, wherein the

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two ends of each being attachable together with a length-adjustable buckle. Such a modification enhances selective securement of the device to a supporting object.

**14.** Claim 3, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 103(a) as being unpatentable over Fishbane (5630651) in view of Franzen, Jr (5685613).

The primary reference shows all claimed features of the instant invention with the exception of the means for wrapping comprising two straps, wherein the two ends of each being attachable together with a length-adjustable buckle.

The secondary reference conventionally teaches configuring a support with a means for wrapping comprising two straps, wherein the two ends of each being attachable together with a length-adjustable buckle. Note such in Figure 17.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by configuring the device with a means for wrapping comprising two straps, wherein the two ends of each being attachable together with a length-adjustable buckle. Such a modification enhances selective securement of the device to a supporting object.

**15.** Claim 9, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 103(a) as being unpatentable over Fishbane (5630651) in view of Franzen, Jr (5685613).

The primary reference shows all claimed features of the instant invention with the exception of the tear-drop shape.

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The secondary reference conventionally teaches configuring a support with a tear-drop shape. Note such in Figure 12.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by configuring the support with a tear-drop shape. Such enhances user support and comfort by providing a contour that provides various angles of the supporting surface of the device.

16. Claim 10, as best understood with the above cited indefiniteness, is rejected under 35 U.S.C. 103(a) as being unpatentable over Fishbane (5630651) in view of either Claudy et al (529364) or Greenwood et al (486374).

The primary reference shows all claimed features of the instant invention with the exception of the strap loop surrounding a strap and a slide-back stopper attached thereto, having such a shape as to prevent the transport of the strap loop along the strap beyond the slide-back stopper, arranged such that the strap loop is between the force exerted by the user's head and the slide-back stopper.

Each of the secondary references conventionally teaches configuring a strap loop surrounding a strap and a slide-back stopper attached thereto, having such a shape as to prevent the transport of the strap loop along the strap beyond the slide-back stopper, arranged such that the strap loop is capable of being between the force exerted by an object and the slide-back stopper.

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It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of either of the secondary references by providing a strap loop surrounding a strap and a slide-back stopper attached thereto, having such a shape as to prevent the transport of the strap loop along the strap beyond the slide-back stopper, arranged such that the strap loop is between the force exerted by the user's head and the slide-back stopper. Such enhances selective securement and support of the device on a supporting object.

***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Headrest structure for attachment to as supporting device is shown by each of Cohune (4154478), Graham et al (5868471), Earl (3608964), Nordskog (4440443), Fergie (5015036), and Chow (5544378).

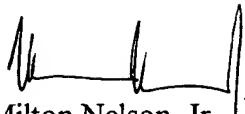
18. Any inquiry of a general nature or relating to the status of this application should be directed to the Group Customer Service Representative at (703) 306-5771, or the Group receptionist at (703) 308-1113.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (703) 308-2117. The examiner can normally be reached on Monday-Thursday from 5:30 AM-3:00 PM. The examiner can also be reached on alternate Fridays.

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The fax number for this Group is (703) 305-76887.

mn  
June 30, 2002



Milton Nelson, Jr.  
Primary Examiner